PUBLIC MATTER

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT - LOS ANGELES

In the Matter of **BRUCE MICHAEL FRIEDMAN,** **Member No. 64095,** A Member of the State Bar.	**Case No. 05-V-03305 – RAH** **DECISION**

I. INTRODUCTION

The issue in this matter is whether **BRUCE MICHAEL FRIEDMAN** ("petitioner") has demonstrated, to the satisfaction of this court, his rehabilitation, present fitness to practice, and present learning and ability in the general law so that he may be relieved from his actual suspension from the practice of law pursuant to standard 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct ("standard 1.4(c)(ii)") located in Title IV of the Rules of Procedure of the State Bar of California ("Rules of Procedure").

For the reasons set forth in this Decision, the court finds that petitioner has shown by a preponderance of the evidence that he has satisfied the requirements of standard 1.4(c)(ii). Therefore, the court grants petitioner's petition to be relieved from actual suspension.

II. SIGNIFICANT PROCEDURAL HISTORY

On July 12, 2005, petitioner filed a verified petition for relief from actual suspension pursuant to rules 631 et seq. of the Rules of Procedure, on the grounds that he had satisfied the requirements of standard 1.4(c)(ii). On August 30, 2005, the State Bar of California, Office of the Chief Trial Counsel ("State Bar"), by Deputy Trial Counsel Jean H. Cha and Diane J. Meyers, filed its response, objecting to the petition. Also on August 30, 2005, the OCTC filed a

supplemental exhibit to the State Bar's response and requested that the court take judicial notice of the Judgment of the Dallas County Court attached thereto as Exhibit 4. With no objection by petitioner, this request was granted.

III. JURISDICTION

Petitioner was admitted to the practice of law in California on June 27, 1975, and at all times mentioned herein, has been a member of the State Bar of California.

IV. FINDINGS OF FACT

A. Underlying Disciplinary Proceedings and Nature of Underlying Misconduct

Petitioner was admitted to the Texas State Bar on April 9, 1993. Following a formal investigation by the Texas State Bar, petitioner resigned as an active attorney in Texas. On October 21, 1996, the Texas Supreme Court accepted petitioner's resignation. (Exhibit 1:3-11) At that time, petitioner had three complaints of professional misconduct against him in Texas. These complaints arose out of petitioner's operation of law offices in Texas while he was also an attorney in California.

Because of the finding of misconduct in Texas, petitioner was served with a Notice of Disciplinary Charges ("NDC") filed on July 30, 2002 in California (case no. 00-J-12651). The State Bar and petitioner settled the California case by entering into a stipulation, which was filed on February 7, 2003 ("the stipulation"). (See Exhibit 2:2-40). In the stipulation, petitioner agreed that he failed to supervise his non-lawyer personnel in his Texas law office and agreed that he allowed non-lawyers to engage in the unauthorized practice of law in Texas by opening files, handling client trust and firm operating accounts, disbursing client funds, and negotiating and settling cases without the clients ever having communicated with petitioner. Petitioner also admitted to fee splitting with a non-lawyer, the manager of the Texas office. Petitioner agreed that this conduct was a violation of rules 1-300, 1-310, 1-320 and 3-110(A) of the Rules of Professional Conduct of the State Bar of California, as well as Business and Professions Code sections 6068(m), 6105, and 6106.

In aggravation, the parties stipulated that petitioner's misconduct evidenced multiple acts of wrongdoing or demonstrated a pattern of misconduct. In mitigation, the parties stipulated that

petitioner had no prior record of discipline over many years of practice, and that a wide range of references in the legal and general communities, who were aware of the full extent of petitioner's misconduct, attested to his good character. The parties also stipulated that petitioner had provided pro bono legal services and also had a long standing history of charitable and community activities.

The State Bar and petitioner stipulated that petitioner should be suspended from the practice of law for three years and until he satisfies the requirements of standard 1.4(c)(ii); that execution of said suspension be stayed; that petitioner be placed on probation for three years; and that petitioner be actually suspended for two years and until he shows proof satisfactory to the State Bar Court of his rehabilitation, present fitness to practice and present learning and ability in the general law pursuant to standard 1.4(c)(ii).

B. Petitioner's Evidence.

1. Background to the Misconduct.

Petitioner had no prior record of discipline over many years of practice. He testified that he opened the law office in May or June of 1994 in Dallas, Texas after receiving a call from an individual named Michael Friedman ("Michael")[1]. Petitioner had originally met Michael when Michael sought to sell him insurance. At the time, petitioner was a member of the Texas Bar. Michael proposed that petitioner open a personal injury law office in Texas that would be run by Michael. Petitioner agreed to set up such an office. His purpose in doing so was simply to make more money.[2]

The activities in the office were handled primarily by Michael and other non-attorneys, who would interview prospective clients, receive documents, then fax them to petitioner, who would recommend the settlement amount to Michael. The office was run as a corporation, and Michael was the sole shareholder and director of the corporation. The office was named "The Law Offices of Bruce Friedman." Petitioner would visit the office every several months, but the

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[1]Michael Friedman is not related to petitioner.

[2]According to petitioner, he opened the office out of "greed."

day-to-day activities, including trust and operating accounting, were handled by Michael and other non-lawyers. Petitioner seldom met with the clients of the firm. Petitioner has admitted doing no meaningful work on behalf of the Dallas clients.[3]

The office remained opened for between 18 months and 36 months.[4] During this time, many lawsuits were filed, and in many cases, counterclaims were filed by the defendants. These lawsuits and counterclaims were sent to petitioner in California for his review. Often, the lawsuits filed by this office were fraudulent, involving set up collisions. In fact, many of the counterclaims had similar factual patterns involving two cars "swooping" in on a third.[5] In retrospect, petitioner admits that he should have seen the similarities in these cases. However, he did not.

The "accidents" handled by petitioner's Texas office became the subject of a criminal investigation by the authorities in Texas. In December 1995, the police came to petitioner's California house and office to search for evidence. Immediately upon learning of the criminal investigation, petitioner began the process of closing the Texas office run by Michael. As noted above, it was closed the following February.

2. Rehabilitation and Present Fitness to Practice Law.

Petitioner has presented evidence of sincere remorse for the misconduct set forth above. He has recognized that his actions were the result of pure greed, but is now able to see that no amount of money would justify sacrificing his professional values. He acknowledged the severe impact his misconduct has had on his family and is humiliated and ashamed as a result. He has fully repaid all of the victims of his misconduct – an amount of approximately $250,000.00. (See

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[3]See the stipulation, Exhibit 2:2-40

[4]The record is unclear as to exactly how long the Texas office remained open. The stipulation states that it was open from May or June 1994 to February 1996, or approximately 18 or 19 months. However, petitioner testified that the Texas office remained open for "2 to 3 years."

[5]As explained at trial, "swooping" involved one participant in the "accident" stopping suddenly in front of the victim, with the other participant hemming in the victim from the side.

Exhibit 4.)[6] He is current in his obligations to the State Bar with respect to his payment of costs. Petitioner has also created a detailed law office management plan to help avoid the recurrence of the misconduct. (Exhibit E.)[7]

The court was impressed with petitioner's demeanor while testifying; the manner in which he testified; the character of his testimony, recognizing his vested interest in the outcome in this proceeding; and his capacity to communicate the matters on which he testified. As such, the Court finds petitioner's testimony to be extremely credible.

Petitioner has obtained the declarations of several witnesses who attested to his good character, rehabilitation, and present fitness to practice law. Each had been given some information concerning petitioner's misconduct, and most had been told the details. All were uniformly complimentary of his character, candor and his honesty. Many were surprised at his misconduct, since it was inconsistent with their understanding and impressions of petitioner's character. Fabian C. Serrato and Steven P. Goldberg are practicing attorneys in California and both attested to petitioner's standing in the community and spoke highly of his good character.

Petitioner also testified as to his contributions to charitable causes. Many of the organizations he is affiliated with used his services as an attorney prior to his suspension.[8] While many such contributions diminished after his suspension, he nevertheless continued volunteering in a more modest fashion with other organizations while on suspension. He trained to be a docent at the Museum of Tolerance in Los Angeles and conducted tours in that capacity. While an attorney, he was active in the formation of Jews for Judaism, and continues to consult for a

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[6]He noted that he did not formally apologize to those he was ordered to pay. However, they were all represented by counsel, so he felt it would be inappropriate to make direct contact with them. He did not, however, contact their attorneys with a request that they pass on an apology. He testified that he felt that the full repayment of the funds ordered better indicated his remorse.

[7]There is no evidence that petitioner failed to comply with any conditions of his disciplinary probation.

[8]For example, as a lawyer, he contributed his time to the Los Angeles Free Clinic, Cornerstone Theater Company, and the Beverly Hills Bar Association.

few hours each month with Rabbi Kravitz, the leader of that organization. He continues to contribute to Cornerstone Theatre Company as a member of its board of directors. Finally, to the extent he is financially able to do so, he and his wife continue to make donations to various charitable organizations.

3. Present Learning and Ability in the General Law.

Before he entered into the stipulation with the State Bar of California, petitioner stopped practicing law. He took some time off and helped members of his family who were either ill or elderly. Later, he tried to find other employment. In April 2003, he was finally able to obtain employment with the Association of Community Human Service Agencies, a local not-for-profit organization that advocates on behalf of its member mental health, child welfare and juvenile justice agencies. He only stayed with this organization a few months.

In April 2004, he was hired as an office manager of We The People, a self-help legal services center. While he did not practice law at We The People, he was able to regain contact with the legal profession by speaking often with the company's attorneys and reviewing the various legal periodicals and newspapers in the office. He also read all of the company's publications on topics such as bankruptcy, family law, unlawful detainer, contracts, and corporations and related entities.

Petitioner has completed continuing legal education in the areas of arbitration, mediation, federal motion practice, real estate law, and appellate practice. He has taken over 29 hours of such courses, seven of which were taken during the period of his suspension.[9]

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[9]At trial, the State Bar focused on the language in petitioner's pre-trial declaration regarding these units, contending that the declaration was misleading. (See declaration attached to petitioner's verified petition for relief from actual suspension.) In this declaration, petitioner stated as follows:

> I have also made an effort to remain current in the law during my suspension. To that end, I completed 29 MCLE hours in the areas of arbitration, mediation, federal motion practice, commercial and real estate law, Supreme Court rulings, and appellate practice.

Petitioner acknowledged the inference one could draw from these statements: that he completed

V. DISCUSSION

Standard 1.4(c)(ii) provides, in relevant part, that normally, actual suspension imposed for two years or more shall require proof satisfactory to the State Bar Court of the attorney's rehabilitation, present fitness to practice and present learning and ability in the general law before the attorney will be relieved of the actual suspension.

In this proceeding, petitioner has the burden of proving, by a preponderance of the evidence, that he has satisfied the conditions of standard 1.4(c)(ii). The court looks to the nature of the underlying misconduct, as well as the aggravating and mitigating circumstances surrounding it, to determine the point from which to measure petitioner's rehabilitation, present learning and ability in the general law, and present fitness to practice before being relieved from his actual suspension. (*In the Matter of Murphy* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 571, 578.)

To establish rehabilitation, the hearing department must first consider the prior misconduct from which petitioner seeks to show rehabilitation. The amount of evidence of rehabilitation varies according to the seriousness of the misconduct at issue. Second, the court must examine petitioner's actions since the imposition of his discipline to determine whether his actions, in light of the prior misconduct, sufficiently demonstrate rehabilitation by a preponderance of the evidence. *(In the Matter of Murphy, supra,* 3 Cal. State Bar Ct. Rptr. at p. 581.)

Petitioner must show strict compliance with the terms of probation in the underlying disciplinary matter; exemplary conduct from the time of the imposition of the prior discipline; and must demonstrate "that the conduct evidencing rehabilitation is such that the court may make a determination that the conduct leading to the discipline ... is not likely to be repeated." *(In the*

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all 29 hours during his suspension. As noted above, only seven hours were completed during the suspension. However, petitioner explained that this was an error in drafting the declaration made by someone in his counsel's office. In fact, he had presented all of the supporting MCLE compliance certificates to his counsel's office, all of which showed the date on which the courses were taken. Based on the above, the court finds petitioner's explanation credible, that this mistake was inadvertent, and that this was not an attempt by petitioner to mislead the court.

Matter of Murphy, supra, 3 Cal. State Bar Ct. Rptr. at p. 581.)

As the Review Department of the State Bar Court noted in *Murphy*, "In weighing such a determination, the court should look to the nature of the underlying offense, or offenses; any aggravation, other misconduct or mitigation that may have been considered; and any evidence adduced that bears on whether the cause or causes of such misconduct have been eliminated." (*In the Matter of Murphy, supra*, 3 Cal. State Bar Ct. Rptr. at p. 581.)

Petitioner's misconduct reflected a serious lack of appropriate judgment. He was motivated out of greed, ignoring the welfare of his clients. While he was actually unaware of the extent of the illegal conduct being carried on by those in his Dallas office, he clearly turned a blind eye to these activities. In doing so, he became a willing conspirator with those who were actively breaking the law and the rules of professional conduct.

Petitioner's misconduct appears to be an isolated case of serious misjudgment. Petitioner had been an attorney for twenty years without any reported misconduct at the time he engaged in the misconduct which caused his suspension. He has fully acknowledged that the origin of his misdeeds was greed. He now recognizes that his professional responsibilities weigh far more importantly than the pursuit of money.

Further, these activities occurred ten years ago. In this time, petitioner has had an opportunity to reflect on the inappropriateness of the misconduct. He has shown remorse to his family and to those damaged by his conduct. He has never denied his responsibility for the acts he committed. The court therefore finds that there is no evidence to suggest that petitioner's misconduct which led to his disciplinary suspension is likely to recur. To the contrary, based on petitioner's insight into his misconduct and his remorse for his past wrongdoing, it appears to this court unlikely that petitioner will again engage in the misconduct which led to his lengthy suspension from the practice of law.

Petitioner also is highly thought of by those who testified on his behalf. His character witnesses all testified to his honesty, responsibility and candor and to the fact that this misconduct was inconsistent with petitioner's good character. Some of those character witnesses were attorneys. Good character testimonials from judges and attorneys are given great weight

because such individuals "'possess a [keen] sense of responsibility for the integrity of the legal profession.'" (*In re Menna* (1995) 11 Cal.4th 975, 988, quoting *Warbasse v. The State Bar* (1933) 219 Cal. 566, 571.) "Letters of recommendation and the favorable testimony of witnesses, especially that of employers and attorneys, are entitled to considerable weight. [Citations.]" (*Feinstein v. State* Bar (1952) 39 Cal.2d 541, 547.) This court properly gave great weight to the testimony of these attorneys, who have a special interest in the requirements for reinstatement of suspended or disbarred attorneys. (See *Hippard v. State* Bar (1989) 49 Cal.3d 1084, 1095.)

Petitioner has also maintained his knowledge of law through reading legal newspapers and periodicals, and maintaining contact with the law at We The People. In that regard, he has kept in contact with attorneys affiliated with the company and has read all of the written materials the company distributes to its customers seeking assistance in their legal problems. Finally, he continues to take continuing legal education courses in satisfaction of his MCLE requirements.

Therefore, based on the above, the Court finds that petitioner has demonstrated, by a preponderance of the evidence, that he is rehabilitated, has present fitness to practice law, and has present learning and ability in the general law.

VI. CONCLUSION

The Court finds that petitioner has satisfied the requirements of standard 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct and that he has demonstrated, by a preponderance of the evidence and to the satisfaction of the Court, that he is rehabilitated, that he is presently fit to practice law and that he possesses present learning and ability in the general law.

Accordingly, petitioner's petition to be relieved from his actual suspension from the practice of law is hereby **GRANTED**. Upon the finality of this Decision, petitioner's actual suspension from the practice of law in the State of California is hereby terminated, and he shall hereafter be entitled to resume the practice of law in California upon payment of all applicable

State Bar fees and costs.

Dated: October 13, 2005

RICHARD A. HONN
Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rule 630(b), Rules Proc. of State Bar; Code Civ. Proc., §§ 1011, 1013]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Following standard court practices, in the City and County of Los Angeles, I served a true copy of the following document(s):

DECISION

as follows:

[X] By OVERNIGHT MAIL by enclosing the documents in a sealed envelope or package designated by an overnight delivery carrier and placing the envelope or package for collection and delivery with delivery fees paid or provided for, addressed as follows:

ELLEN A PANSKY ATTORNEY AT LAW
PANSKY & MARKLE
1114 FREMONT AVE
SOUTH PASADENA, CA 91030

[X] By PERSONAL SERVICE by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:

JEAN H CHA ATTORNEY AT LAW
STATE BAR OF CALIFORNIA
OFFICE OF THE CHIEF TRIAL COUNSEL
1149 S. HILL STREET
LOS ANGELES, CA 90015

I hereby certify that the foregoing is true and correct. Executed at Los Angeles, California, on **October 13, 2005**.

Julieta E. Gonzales

Julieta E. Gonzales
Case Administrator
State Bar Court